

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JOHNNY RAY CHEEK, #42969-177	§	
Petitioner,	§	
	§	
v.	§	3:16-CV-1051-D-BK
	§	
NORTHERN DISTRICT COURT,	§	
Respondent.	§	

ORDER


After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, and the petition for writ of habeas corpus under 28 U.S.C. § 2241 is dismissed without prejudice for want of jurisdiction.

The court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings and recommendation, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). If petitioner appeals, he may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, United States Court of Appeals for

the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

SO ORDERED.

May 24, 2016.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE